

REMARKS

Claims 1-28 are currently pending. Claims 12, 13, 19, and 21-26 are withdrawn. Claims 1-11, 14-18, 20, 27, and 28 are rejected. No new matter has been added by the present amendment.

Objection to the Specification

The Examiner has indicated that on page 10, line 5, the external teeth should be 386 and 387 not 381 and 383. Applicants thank the Examiner for pointing out this typographical error, and have amended the specification accordingly.

Rejections Under 35 USC § 102

Claims 1-5, 7-11, 14-18, 20, 27, and 28 are rejected under 35 USC 102(e) as being anticipated by Shitoto (U.S. Patent No. 6,716,213). Applicants respectfully traverse the rejection.

Claims 1, 8, 27, and 28

Shitoto fails to disclose each and every element of independent claims 1, 8, 27 and 28. Specifically, Shitoto fails to disclose a housing component for connecting a first spinal rod to a second spinal rod, the housing component defining, a first bore hole for receiving a portion of the first rod that extends along a first longitudinal axis, and a second bore hole for receiving a portion of the second rod that extends along a second longitudinal axis, as described in independent claims 1, 8, 27 and 28.

Shitoto does not disclose a housing component for connecting a first spinal rod and a second spinal rod. The element indicated by the Examiner as a first and second housing (10) is actually a connector for connecting a spinal rod 15 to a bone screw 30. Indeed, nowhere in Shitoto is it discussed to use the connector 10 to connect a spinal rod 15 with another spinal rod 15. Even accepting the Examiner's construction of one connector 10 corresponds to a first housing component and another connector 10 corresponds to a second housing component, the combination of the two connectors 10 do not disclose the housing of claims 1, 8, 27 and 28. Claims 1, 8, 27 and 28 require a first bore hole extending along a first longitudinal axis and a

second bore hole extending along a second longitudinal axis. When the two connectors 10 are combined as disclosed in Shitoto, the through hole 11 of the second connector 10 receives the short rod 12 of the first connector 10 therein connecting the first connector 10 to the second connector 10. Thus, the through hole 11 of the second connector 10 acts as the coupling hole described in the present invention for receiving a coupling rod (short rod 12). Therefore, when two of the connectors 10 of Shitoto are combined as suggested by the Examiner to form the housing component set forth in claim 1, there is no second bore hole extending along a second longitudinal axis for receiving a second spinal rod as required by claim 1. Said another way, the connector 10 disclosed in Shitoto only has one through hole 11 for receiving a rod (either a spinal rod 15 or a short rod 12). If two connectors 10 are combined, the through hole 11 of one of the connectors receives the short rod 12 of the other connector. Thus the resulting combination of connectors still only has one available through hole 11 for receiving the spinal rod 15.

In light of the foregoing remarks, Applicants respectfully submit that Shitoto fails to disclose each and every element of claims 1, 8, 27 and 28, and as such claims 1, 8, 27 and 28 are not anticipated by Shitoto. Applicants therefore request the Examiner withdraw the rejections of claims 1, 8, 27 and 28 under 35 U.S.C. §102(e), and pass the claim to allowance.

Claims 2 and 9

Claims 2 and 9 depend from claims 1 and 8 respectively and as such incorporate each and every element of their respective independent claims. As discussed above Shitoto fails to disclose each and every element of claims 1, 8, 27 and 28. Accordingly, Shitoto also fails to disclose each and every element of claims 2 and 9.

In addition, claims 2 and 9 deal with the adjustment of the orientation of the first and second bore holes in relation to each other. As discussed above, the connectors of Shitoto alone or in combination only provide one hole for receiving a spinal rod. As such, there is no second hole to adjust in relation to the first hole and therefore no disclosure of adjusting the second hole.

In light of the foregoing remarks, Applicants respectfully submit that claims 2 and 9 are not anticipated by Shitoto. Applicants therefore request the Examiner withdraw the rejections of claims 2 and 9 under 35 U.S.C. §102(e), and pass the claims to allowance.

Claims 3-7, 10-11, and 14-20

Claims 3-7, 10-11, and 14-20 are directed to a connector for connecting a first spinal rod to a second spinal rod. The connector has first and second housing components coupled together wherein the first housing defines a first bore hole for receiving the first spinal rod and the second housing defines a second bore hole for receiving the second spinal rod. Shitoto does not disclose first and second housing components as set forth in claims 3-7, 10-11, and 14-20.

As discussed above in regard to claims 1, 8, 27 and 28, the Examiner has adopted a construction wherein a connector 10 is used for each of the first and second housing components. The problem with this construction is that what the Examiner has indicated to be the second bore hole (element 11) in actuality acts as the coupling hole that receives the coupling rod (element 12) to couple the two connectors 10 together. Therefore, when the connectors 10 are coupled together, there is only one available hole 11 for receiving a spinal rod 15. Thus, Shitoto fails to disclose first and second housing components coupled together wherein the first housing defines a first bore hole for receiving the first spinal rod and the second housing defines a second bore hole for receiving the second spinal rod as set forth in claims 3-7, 10-11, and 14-20.

In light of the foregoing remarks, Applicants respectfully submit that Shitoto fails to disclose each and every element of claims 3-7, 10-11, and 14-20 and as such claims 3-7, 10-11, and 14-20 are not anticipated by Shitoto. Applicants therefore request the Examiner withdraw the rejections of claims 3-7, 10-11, and 14-20 under 35 U.S.C. §102(e), and pass the claim to allowance.

Rejections Under 35 USC § 103

Claims 6 is rejected under 35 USC 103 as being unpatentable over Shitoto (U.S. Patent No. 6,716,213) in view of Olerud et al. (U.S. Patent Number 5,053,034). Applicants respectfully traverse the rejection.

Claim 6 depends from claim 1, and as such incorporates each and every element of claim 1. As discussed above, Shitoto fails to disclose each and every element of claim 1. The addition of Olerud et al. fails to cure this deficiency. Neither, Shitoto or Olerud et al., alone or in combination, disclose, teach, or suggest each and every element of claim 1. As such, Shitoto and Olerud et al., alone or in combination, also fail to disclose, teach, or suggest, each and every element of claim 6.

In light of the foregoing remarks, Applicants respectfully submit that the combination of Shitoto and Olerud et al. fails to disclose, teach or suggest each and every element of claim 6 and as such claim 6 is not obvious in view of Shitoto and Olerud et al. Applicants therefore request the Examiner withdraw the rejections of claim 2 under 35 U.S.C. §103 and pass the claim to allowance.

CONCLUSION

In view of the above amendment, applicant believes the pending application is in condition for allowance.

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